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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

MELINDA ROAQUE, an individual,

Case No.: 2:22-cv-01979-JCM-BNW

Plaintiff,

VS.

WALMART, INC., a foreign corporation; DOE MANAGERS I through X; DOE MAINTENANCE and/or INSPECTION EMPLOYEES or AGENTS I through X; DOES I through XX; ROE PROPERTY MANAGEMENT ENTITIES I through X; ROE MAINTENANCE and/or INSPECTION ENTITIES I through X; and ROE CORPORATIONS and/or ENTITIES I through XX, inclusive,

**STIPULATION TO EXTEND
DISCOVERY PLAN AND
SCHEDULING ORDER
(SECOND REQUEST)**

Defendants.

IT IS HEREBY STIPULATED by and between the parties hereto, by and through their respective counsel, that the deadlines remaining in this case shall be extended in this matter as described herein.

I. Discovery Completed

Plaintiff has served the following discovery to date:

1. Plaintiff's Initial List of Witnesses and Documents Produced Pursuant to FRCP 26(a),

1 served on February 8, 2023.

2 2. Plaintiff's First Supplement to Initial List of Witnesses and Documents, served on

3 February 22, 2023.

4 3. Plaintiff's Second Supplement to Initial List of Witnesses and Documents Produced

5 Pursuant to FRCP 26(a), served on February 27, 2023.

6 4. Plaintiff's Third Supplement to Initial List of Witnesses and Documents Produced

7 Pursuant to FRCP 26(a), served on March 9, 2023.

8 5. Plaintiff's First Set of Interrogatories, Requests for Admissions, and Requests for

9 Production of Documents, served on March 15, 2023.

10 6. Plaintiff's Fourth Supplement to Initial List of Witnesses and Documents Produced

11 Pursuant to FRCP 26(a), served on April 24, 2023.

12 7. Plaintiff's Fifth Supplement to Initial List of Witnesses and Documents Produced

13 Pursuant to FRCP 26(a), served on May 17, 2023.

14 8. Plaintiff's Designation of Expert Witnesses, served on June 7, 2023.

15 9. Plaintiff's Sixth Supplement to Initial List of Witnesses and Documents Produced

16 Pursuant to FRCP 26(a), served July 10, 2023.

17 10. Plaintiff's Notice of Taking the Deposition of the Knowledgeable Person(s) of

18 Walmart, Inc, Pursuant to FRCP 30(b)(6) via Videoconference, served on July 12,

19 2023.

20 11. Plaintiff's Seventh Supplement to Initial List of Witnesses and Documents Produced

21 Pursuant to FRCP 26(a), served July 24, 2023.

22 12. Plaintiff's Eighth Supplement to Initial List of Witnesses and Documents Produced

23 Pursuant to FRCP 26(a), served on August 29, 2023.

24 13. Plaintiff's First Supplement to Designation of Expert Witnesses, served November 3,

25 2023

26 14. 30(b)(6) Deposition of Defendant's Person Most Knowledgeable, Raymond Hope,

27 taken November 19, 2023

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1 Defendant Has Served the following discovery to date:

- 2 1. Defendant Walmart Inc.'s Initial Disclosure of Witness Statements and Documents,
3 served on February 22, 2023.
- 4 2. Defendant Walmart Inc.'s Responses to Plaintiff's First Set of Interrogatories,
5 Requests for Admissions, and Requests for Production of Documents, served on May
6 5, 2023.
- 7 3. Defendant Walmart Inc.'s First Supplement to Disclosure of Witness Statements and
8 Documents, served on May 5, 2023.
- 9 4. Defendant Walmart Inc.'s Initial FRCP 26(a)(2) Disclosure of Expert Witnesses,
10 served on June 8, 2023.
- 11 5. Defendant Walmart Inc.'s FRCP 26 Second Supplement to Disclosure of Witness
12 Statements and Documents, served on June 8, 2023.
- 13 6. Defendant Walmart Inc.'s Notice of Taking the Deposition of Plaintiff Melinda
14 Roaque, served on July 6, 2023.
- 15 7. Defendant Walmart Inc.'s First Set of Interrogatories, Requests for Production of
16 Documents, and Requests for Admissions to Plaintiff, served on July 6, 2023.
- 17 8. Defendant Walmart Inc.'s Amended Notice of Taking the Deposition of Plaintiff
18 Melinda Roaque, served on July 11, 2023.
- 19 9. Defendant Walmart Inc.'s Second Amended Notice of Taking the Deposition of
20 Plaintiff Melinda Roaque, served on July 13, 2023.
- 21 10. Defendant Walmart Inc.'s Third Amended Notice of Taking the Deposition of
22 Plaintiff Melinda Roaque, served on July 13, 2023.
- 23 11. Deposition of Plaintiff Melinda Roaque, taken October 18, 2023.

24 **II. Reasons Why Dispositive Motions and Motions *in Limine* Cannot Be Completed
25 Within the Time Set by Discovery Plan and Scheduling Order.**

26 **Good Cause**

27 Good cause exists in this case to grant the parties' requested extension. Although this is
28 the parties' second request for an extension of the deadlines in this matter, the parties have

1 diligently worked to move the case forward and have been working to resolve Plaintiff's claims
 2 prior to trial. The parties are coordinating private mediation of Plaintiff's claims and anticipate
 3 the mediation will occur by early February, depending upon availability of the neutral. An
 4 extension of time to accommodate this mediation is requested to avoid costs of further litigation
 5 and to avoid unduly burdening this Court's calendar. Thus, the parties respectfully request that
 6 the remaining deadlines in this matter, namely the deadline for dispositive motions and motions
 7 *in limine*, be extended by a period of 90 days as described herein.

8 Furthermore, although LR IA 6-1(a) mandates that requests for extensions be made prior
 9 to the relevant deadline, good cause exists for the parties' delay in seeking this discovery
 10 extension, as discussed below. The parties have worked diligently throughout the discovery
 11 process to further this matter and now believe the matter may resolve prior to trial. As such, the
 12 parties respectfully request that the Court find that good cause exists to grant their requested
 13 extension.

14 Excusable Neglect

15 LR IA 6-1(a) mandates that a motion or stipulation to extend a deadline set forth in a
 16 discovery plan must be received by the court no later than 21 days before the expiration of the
 17 subject deadline. A request made within 21 days of the subject deadline must be supported by a
 18 showing of good cause. A request made after the expiration of the subject deadline will not be
 19 granted unless the movant also demonstrates that the failure to act was the result of excusable
 20 neglect. To determine whether neglect is excusable, four factors must be met: (1) the danger of
 21 prejudice to the opposing party; (2) the length of the delay and its potential impact on the
 22 proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith. *Victor*
 23 *v. Walmart, Inc.*, No. 2:20-cv-01591-JCM-NJK, 2021 U.S. Dist. LEXIS 163908, at *10 (D. Nev.
 24 Apr. 8, 2021).

25 The current deadline for dispositive motions and motions *in limine* is December 6, 2023.
 26 Because the parties' request was submitted within 21 days of the December 6, 2023 deadline, the
 27 excusable neglect analysis does not apply. Notwithstanding, the parties only recently determined
 28 that early resolution may be possible. Both parties are in agreement regarding the requested

1 extension, thus neither party will be prejudiced. Further, a trial date has not yet issued. Thus,
 2 because no prejudice will arise, any delay in seeking to extend the dispositive motion and
 3 motions *in limine* deadline should be attributed to excusable neglect, if at all.

4 This request to extend discovery deadlines is made in good faith and not for the purposes
 5 of delay. The parties have acted in good faith in this matter and good cause exists to extend the
 6 deadline for dispositive motions and motions *in limine*. In conclusion, the parties request that the
 7 discovery deadlines be enlarged as stated below.

8 **III. Current Discovery Deadlines**

9	1. Discovery Cut Off:	November 6, 2023
10	2. Motions to amend pleadings or add parties:	May 9, 2023
11	3. Designation of initial experts:	June 8, 2023
12	4. Designation of rebuttal experts:	July 10, 2023
13	5. Dispositive Motions / Motions <i>in Limine</i> :	December 6, 2023

14 **IV. Proposed Schedule for Completing All Remaining Discovery**

15	1. Discovery Cut Off:	CLOSED
16	2. Motions to amend pleadings or add parties:	CLOSED
17	3. Designation of initial experts:	CLOSED
18	4. Designation of rebuttal experts:	CLOSED
19	5. Dispositive Motions / Motions <i>in Limine</i> :	March 5, 2024

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1 Based upon the foregoing, the parties respectfully request that this Court grant their
2 request to extend the remaining deadlines as outlined herein.

3 DATED this 6th day of December, 2023.

4 HALL & EVANS, LLC.

5 */s/ Kurt R. Bonds*

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15 Attorneys for *Defendant Walmart, Inc.*

16 DATED this 6th day of December, 2023.

17 PATERNOSTER LAW GROUP

18 */s/Glenn A Paternoster*

19

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25 glenng@paternosterlaw.com

26 Attorneys for *Plaintiff*

13 **IT IS SO ORDERED**

14 **DATED:** 10:37 am, December 07, 2023

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16 **BRENDA WEKSLER**

17 **UNITED STATES MAGISTRATE JUDGE**

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